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**CAP. 12.] CODE OF ORGANIZATION AND CIVIL PROCEDURE**

Application of  
provisions to  
magistrates.  
*Amended by:*  
*IV. 1905.2;*  
*XV. 1913.141;*  
*XXIV. 1995.282.*

**740.** The provisions of this sub-title shall be applicable to magistrates of the inferior courts.

*Sub-title III*

OF PLEAS TO THE JURISDICTION

Plea to the  
jurisdiction.  
Grounds of plea.

**741.** It shall be lawful to plead to the jurisdiction of the court -

- (a) when the action is not one within the jurisdiction of the courts of Malta;
- (b) when the action, although one within the jurisdiction of the courts of Malta, is brought before a court different from that by which such action is cognizable;
- (c) when the privilege of being sued in a particular court is granted to the defendant.

Persons subject to  
jurisdiction of civil  
courts of Malta.  
*Amended by:*  
*XXII. 1976.4;*  
*VIII. 1981.7;*  
*Substituted by:*  
*XXIV. 1995.283.*  
*Amended by:*  
*III. 2004.41.*

**742.** (1) Save as otherwise expressly provided by law, the civil courts of Malta shall have jurisdiction to try and determine all actions, without any distinction or privilege, concerning the persons hereinafter mentioned:

- (a) citizens of Malta, provided they have not fixed their domicile elsewhere;
  - (b) any person as long as he is either domiciled or resident or present in Malta;
  - (c) any person, in matters relating to property situate or existing in Malta;
  - (d) any person who has contracted any obligation in Malta, but only in regard to actions touching such obligation and provided such person is present in Malta;
  - (e) any person who, having contracted an obligation in some other country, has nevertheless agreed to carry out such obligation in Malta, or who has contracted any obligation which must necessarily be carried into effect in Malta, provided in either case such person is present in Malta;
  - (f) any person, in regard to any obligation contracted in favour of a citizen or resident of Malta or of a body having a distinct legal personality or association of persons incorporated or operating in Malta, if the judgment can be enforced in Malta;
  - (g) any person who expressly or tacitly, voluntarily submits or has agreed to submit to the jurisdiction of the court.
- (2) The jurisdiction of the courts of civil jurisdiction is not

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excluded by the fact that a foreign court is seized with the same cause or with a cause connected with it. Where a foreign court has a concurrent jurisdiction, the courts may in their discretion, declare defendant to be non-suited or stay proceedings on the ground that if an action were to continue in Malta it would be vexatious, oppressive or unjust to the defendant.

(3) The jurisdiction of the courts of civil jurisdiction is not excluded by the fact that there exists among the parties any arbitration agreement, whether the arbitration proceedings have commenced or not, in which case the court, saving the provisions of any law governing arbitration, shall stay proceedings without prejudice to the provisions of subsection (4) of this section and to the right of the court to give any order of direction.

(4) On the demand by any person being a party to an arbitration agreement, the courts may issue any precautionary act, in which case, if such party has not yet brought forward his claim before an arbitrator, the time limits prescribed in this Code for bringing the action in respect of the claim shall be twenty days from the date of issue of the precautionary act.

(5) A precautionary act issued in terms of the preceding subsection shall be rescinded:

- (a) if the party against whom it is issued makes such deposit or gives such security sufficient to secure the rights or claims stated in the act; or
- (b) if the applicant fails to bring forward his claim, whether before the arbitrator or before the court, within the said time limit of twenty days; or
- (c) on the expiration of the duration, original or extended, of the particular act in terms of this Code; or
- (d) for just cause on the application of the debtor as the court may deem proper in the circumstances.

(6) Where provision is made under any other law, or, in any regulation of the European Union making provision different from that contained in this article, the provisions of this article shall not apply with regard to the matters covered by such other provision and shall only apply to matters to which such other provision does not apply.

742A. No civil proceedings whatsoever shall be taken against the President of Malta in respect of acts done in the exercise of the functions of his office.

Immunity of the  
President of Malta.  
Added by:  
XXIV.1995.284.

743. (1) The party against whom the defendant in an action brought by such party sets up a counter-claim shall also be subject to the jurisdiction of the courts of civil jurisdiction.

Party against  
whom counter-  
claim is set up,  
subject to  
jurisdiction of the  
courts of civil  
jurisdiction.  
Amended by:  
XXIV.1995.285.

(2) The provision of this section shall also apply in the cases referred to in section 402.